

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM A. CLARKE,

Plaintiff,

vs.

FISHER-PRICE, INC.,

Defendant.

ORIGINAL

HONORABLE _____

CIVIL ACTION NO. _____

07 C 0421 S

JURY TRIAL DEMANDED

THOMAS A. LEWRY (P36399)
BROOKS KUSHMAN P.C.
1000 Town Center
Twenty-Second Floor
Southfield, Michigan 48075-1238
Tel: (248) 358-4400
Fax: (248) 358-3351

Attorney for Plaintiff

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, William A. Clarke ("Clarke"), for his Complaint states as follows:

THE PARTIES

1. Plaintiff Clarke is an individual, residing in Erie County, Pennsylvania.
2. Defendant Fisher-Price, Inc. ("Fisher-Price") is a Delaware corporation with its principal place of business in East Aurora, New York.



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USA

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www.brookskushman.com

JURISDICTION AND VENUE

3. This action for patent infringement arises under the Patent Laws of the United States, Title 35 of the United States Code, including 35 U.S.C. § 271.

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) because Fisher-Price voluntarily conducts business and solicits customers in this District and has committed and continues to commit acts of patent infringement in this District.

BACKGROUND

5. On March 21, 2000, U.S. Patent No. 6,038,711 (“the ‘711 patent”), entitled “Potty Training Device,” issued to Clarke. (Exhibit A, the ‘711 patent.)

6. Clarke is the owner of all rights, title and interest in the ‘711 patent.

7. Upon information and belief, Fisher-Price makes, uses, sells, offers for sale, and/or imports into the United States a product called the “Fun To Learn Potty.” (Exhibit B, “Fun To Learn Potty” picture.)

COUNT I – PATENT INFRINGEMENT

8. Clarke incorporates the allegations set forth in paragraphs 1-7.

9. Fisher-Price has infringed and continues to infringe one or more claims of the ‘711 patent by making, using, selling, offering to sell, and/or importing the “Fun To Learn Potty” in violation of 35 U.S.C. § 271. On information and belief, Fisher-Price’s infringement was and continues to be willful.



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10. Clarke has suffered damages as a result of Fisher-Price's infringing activities, and will continue to suffer substantial and irreparable damage unless Fisher-Price is enjoined by this Court.

PRAYER FOR RELIEF

Clarke asks the Court to:

- A. preliminarily and permanently enjoin Fisher-Price, its officers, agents, servants, employees, attorneys, successors and assigns, and all others acting in privity or in concert with Fisher-Price, from further infringing the '711 patent;
- B. award Clarke damages, with prejudgment interest and costs, and increasing those damages to three times the amount assessed pursuant to 35 U.S.C. § 284;
- C. declare this an exceptional case within the meaning of 35 U.S.C. § 285, and awarding Clarke his reasonable attorney's fees, costs, and disbursements; and
- D. grant Clarke all other relief to which he is entitled.



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DEMAND FOR JURY TRIAL

Clarke demands a jury trial on all issues properly triable to a jury.

Respectfully submitted,

BROOKS KUSHMAN P.C.

By: 
THOMAS A. LEWRY
1000 Town Center
Twenty-Second Floor
Southfield, Michigan 48075-1238
Tel: (248) 358-4400
Fax: (248) 358-3351
E-mail: tlewry@brookskushman.com

Attorney for Plaintiff

Dated: **July 31, 2007**



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